

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

-----X
TOMAS VERA, JOEL VELEZ,
MARGARET KENNEDY, DONNA
ZIELINSKI, MICHAEL ZIELINSKI,
MARCO L. NEAD, and RENEE
WILLIAMS, on behalf of themselves and all
Others similarly situated,

Plaintiffs,

-against-

MIDDLESEX WATER COMPANY ,

Defendant.

Civil Action No. _____

NOTICE OF REMOVAL

(Removed from Superior Court of,
New Jersey, Middlesex County
Docket No. MID-L-6306-21)

-----X
MIDDLESEX WATER COMPANY,

Third-Party Plaintiff

-against-

3M COMPANY (f/k/a Minnesota Mining and
Manufacturing, Co.),

Third-Party Defendant.

-----X
TO: CLERK OF THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

PLEASE TAKE NOTICE that MIDDLESEX WATER COMPANY (“Middlesex Water Company” or “Defendant”), by and through its undersigned counsel, hereby gives notice of removal of this Action from the Superior Court of New Jersey, County of Middlesex, where it is pending under Docket No. MID-L-6306-21, to the United States District Court for the District of New Jersey. The case is properly removed pursuant to 28 U.S.C. §§ 1332, 1441 and 1446 from the Superior Court, Middlesex County to the United States District Court for the District of New Jersey. Defendant respectfully states the following:

THE STATE COURT ACTION

1. On or about October 29, 2021, Plaintiff Thomas Vera, on behalf of himself and all others similarly situated, filed a Complaint in the Superior Court of New Jersey, Middlesex County bearing Docket No. MID-L-6306-21, and naming Middlesex Water Company (“MWC”) as defendants. A true and correct copy of the Complaint dated October 29, 2021, is annexed hereto as **Exhibit “A.”**

2. On or about November 18, 2021, Plaintiffs Tomas Vera, Joel Velez, Margaret Kennedy, Donna Zielinski, Michael Zielinski, Marco L. Nead, and Renee Williams, on behalf of themselves and all others similarly situated, filed a First Amended Complaint in the Superior Court of New Jersey, Middlesex County bearing Docket No. MID-L-6306-21, and naming MWC as defendant. A true and correct copy of the First Amended Complaint dated November 18, 2021, is annexed hereto as **Exhibit “B.”**

3. On or about April 25, 2022, Plaintiffs filed a Second Amended Complaint in the Superior Court of New Jersey, Middlesex County bearing Docket No. MID-L-6306-21. A true and correct copy of the Second Amended Complaint dated April 25, 2022, is annexed hereto as **Exhibit “C.”**

4. On or about May 4, 2022, MWC filed an Answer to Plaintiffs’ Second Amended Complaint. A true and correct copy of MWC’s Answer to the Second Amended Complaint dated May 4, 2022, is annexed hereto as **Exhibit “D.”**

5. Also on or about May 4, 2022, MWC filed a Third-Party Complaint against 3M Company, f/k/a Minnesota Mining and Manufacturing Co., also in the Superior Court of New Jersey, Middlesex County bearing Docket No. MID-L-6306-21. A true and correct copy of the Third-Party Complaint dated May 4, 2022, is annexed hereto as **Exhibit “E.”**

6. On or about June 13, 2022, 3M filed a Notice of Appearance and a Consent Order extending time to respond to the Third-Party Complaint. True and correct copies of 3M's Notice of Appearance and Consent Order dated June 13, 2022, are annexed hereto as **Exhibit "F."**

7. Pursuant to the Second Amended Complaint dated April 25, 2022, Plaintiffs, Middlesex County residents, commenced an action against MWC, alleging MWC is liable for the reimbursement costs of bottled water and water filtration systems that Plaintiffs allegedly expended money for in response to two notices sent to MWC customers regarding elevated levels of polyfluoroalkyl substances ("PFAS") in their drinking water. *See* Ex. C. The Second Amended Complaint also seeks reimbursement of the costs of medical co-pays and medical monitoring, and further seeks certain injunctive relief. *See id.*

8. MWC denies all material allegations of purported wrongdoing as alleged in the Second Amended Complaint. *See* Ex. D. MWC has never contaminated its own public drinking water supplies with PFAS. *See id.*

9. 3M marketed, developed, manufactured, distributed, released, trained users of, produced instructional materials for, sold and/or otherwise handled and/or used PFAS in New Jersey in such a way as to result in the contamination of MWC's public drinking water supplies. *See id.*

10. 3M knew or should have known that PFAS are a toxin and is persistent when released into the environment and presents significant risks to groundwater and drinking water supplies. *See id.* 3M marketed and sold PFAS in New Jersey with the knowledge that PFAS sold be released into the environment and without warning users or others of the risks of PFAS to groundwater and drinking water supplies. *See id.*

11. Through the third-party action, MWC seeks common law contribution and indemnification from 3M, as the damages Plaintiffs seek, if any, were caused by the primary and active negligence, carelessness and recklessness of 3M. *See id.*

FEDERAL JURISDICTIONAL REQUIREMENTS

12. This Supreme Court action is a suit of a wholly civil nature of which the District Court has original jurisdiction under 28 U.S.C. §§ 1332(d), and is one that may be removed by petition pursuant to 28 U.S.C. § 1441(a) and (b).

13. Under 28 U.S.C. § 1332(d)(2), “[t]he district courts shall have original jurisdiction of any civil action in which the matter in controversy exceeds the sum or value of \$5,000,000, exclusive of interest and costs, and is a class action in which—(A) any member of a class of plaintiffs is a citizen of a State different from any defendant; (B) any member of a class of plaintiffs is a foreign state or a citizen or subject of a foreign state and any defendant is a citizen of a State; or (c) any member of a class of plaintiffs is a citizen of a State and any defendant is a foreign state or a citizen or subject of a foreign state.”

14. Plaintiffs all claim to be residents of the State of New Jersey at all relevant times. *See Ex. C, ¶¶ 37-42.*

15. Defendant/Third-Party Plaintiff MWC is a corporation organized and existing under the laws of the state of New Jersey having its principal place of business at 485C Route One South, Suite 400, Iselin, NJ 08830. *See Ex. E ¶ 1.*

16. Third-Party Defendant 3M Company (f/k/a Minnesota Mining and Manufacturing Company) (“3M”) is a corporation organized and existing under the laws of the State of Delaware and does business throughout the United States, including conducting business in New Jersey. 3M has its principal place of business in St. Paul, Minnesota. *See id. ¶ 4.*

17. This action also satisfies the amount in controversy requirement of 28 U.S.C. § 1332(d), as plaintiffs have placed more than \$5,000,000 in controversy. Specifically, the Complaint alleges that the Notices at issue were sent to over 20,000 MWC customers, and that each customer would be entitled to reimbursement of approximately \$3,000. *See* Ex. C. ¶¶50, 95. Thus, this action also satisfies the amount in controversy requirement of 28 U.S.C. § 1332(d), as the amount in controversy exceeds \$5,000,000.00, exclusive of interests and costs.

PROCEDURAL REQUIREMENTS FOR REMOVAL

18. This action is properly removed pursuant to 28 U.S.C. §§ 1441 and 1446.

19. Under section 1441(a), “any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants to the district court of the United States for the district and division embracing the place where such action is pending.” 28 U.S.C. § 1441(a).

20. Plaintiffs filed this action in the Superior Court of the State of New Jersey, Middlesex County.

21. Removal is appropriate to the United States District Court for the District of New Jersey as the Court corresponds to the judicial district embracing Middlesex County, the place where the action was brought, and, therefore, the proper district court to which this case should be removed. *See* 28 U.S.C. §§ 1441(a), 1446(a).

22. On June 13, 2022, 3M filed a Notice of Appearance and a Consent Order extending time to respond to the Third-Party Complaint. Accordingly, this Notice of Removal has been timely filed under 28 U.S.C. § 1446(b)(3).

23. Pursuant to 28 U.S.C. § 1446(a), MWC is simultaneously filing with this Notice of Removal true and correct copies of all process, pleadings, orders and other papers or exhibits on file in the Superior Court of the State of New Jersey, Middlesex County.

24. Additionally, in accordance with 28 U.S.C. § 1446(d), a Notice of Filing of this Notice of Removal will be filed with the Superior Court of New Jersey, Middlesex County contemporaneously with the filing of this Notice of Removal, and written notice of the filing of this Notice of Removal will be served upon Plaintiffs' and third-party defendant's counsel. A copy of the Notice of Filing of Notice of Removal is attached hereto as **Exhibit "G"**.

25. In filing this Notice of Removal, MWC denies that Plaintiffs have stated a claim for which relief may be granted and denies that Plaintiffs have been damaged in any manner. Defendant does not waive, and specifically reserves, any and all defenses, exceptions, rights, and motions, including Fed. Rule 12(b) motion to dismiss.

26. Pursuant to 28 U.S.C. § 1446(a), Middlesex Water Company is simultaneously filing with this Notice of Removal copies of all process, pleadings, orders and other papers or exhibits on file in the Superior Court of New Jersey, Middlesex County, Docket No.: MID-L-6306-21, attached hereto as **Exhibit H-1; H-2; H-3; H-4; H-5 and H-6**.

WHEREFORE, Defendant MWC requests that this Notice of Removal be filed and said

action be removed to proceed in this Court and that no further proceedings be held in the Superior Court of the State of New Jersey, Middlesex County.

Respectfully Submitted this 6th day of July, 2022.

COZEN O'CONNOR

By: /s/ Vincent P. Pozzuto

Vincent Pozzuto, Esq. (VP7168)
Attorneys for Defendant/Third-Party Plaintiff
Middlesex Water Company
3 WTC, 175 Greenwich Street, 55th Floor
New York, New York 10007
(212) 509-9400
vpozutto@cozen.com

TO:

Stephen P. DeNittis, Esq.
Joseph A. Osefchen, Esq.
Shane T. Prince, Esq.
DeNITTIS OSEFCHEN PRINCE, P.C.
Attorneys for Plaintiffs
525 Route 73 North, Suite 410
Marlton, New Jersey 08053
(856) 797-9951

Michael A. Galpern, Esq.
Zachary A. Green, Esq.
JAVERBAUM, WURGAFT, HICKS
KAHN, WIKSTROM & SININS, P.C.
Attorneys for Plaintiffs
1000 Haddonfield-Berlin Rd., Ste. 203
Voorhees, New Jersey 08043
(856) 595-4100

Donald J. Camerson, II, Esq.
James W. Crowder, IV, Esq.
BRESSLER, AMERY & ROSS, P.C.
Attorneys for Third-Party Defendant
325 Columbia Turnpike
Florham Park, New Jersey 07932
(973) 514-1200

Andrew J. Calica, Esq. (*pro hac vice* forthcoming)

Jordan D. Sagalowsky, Esq. (*pro hac vice* forthcoming)
MAYER BROWN LLP
Attorneys for Third-Party Defendant
1221 Avenue of the Americas
New York, NY 10020
(212) 506) 2500

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 6th day of July, 2022, a true and correct copy of the foregoing NOTICE OF REMOVAL has been electronically filed with the court and served Via Overnight Mail upon the following parties:

Stephen P. DeNittis, Esq.
Joseph A. Osefchen, Esq.
Shane T. Prince, Esq.
DeNITTIS OSEFCHEN PRINCE, P.C.
Attorneys for Plaintiffs
525 Route 73 North, Suite 410
Marlton, New Jersey 08053
(856) 797-9951

Michael A. Galpern, Esq.
Zachary A. Green, Esq.
JAVERBAUM, WURGAFT, HICKS
KAHN, WIKSTROM & SININS, P.C.
Attorneys for Plaintiffs
1000 Haddonfield-Berlin Rd., Ste. 203
Voorhees, New Jersey 08043
(856) 595-4100

Donald J. Camerson, II, Esq.
James W. Crowder, IV, Esq.
BRESSLER, AMERY & ROSS, P.C.
Attorneys for Third-Party Defendant
325 Columbia Turnpike
Florham Park, New Jersey 07932
(973) 514-1200

Andrew J. Calica, Esq. (*pro hac vice* forthcoming)
Jordan D. Sagalowsky, Esq. (*pro hac vice* forthcoming)
MAYER BROWN LLP
Attorneys for Third-Party Defendant
1221 Avenue of the Americas
New York, NY 10020

/s/ Vincent P. Pozzuto
Vincent P. Pozzuto (7168)